

CHAPTER 1104

IMPORT OF CIGARETTES AND TOBACCO PRODUCTS — LIMITATIONS

S.F. 2079

AN ACT relating to the prohibition of shipping or importing into the state, or the offering for sale, selling, transporting, distributing, or possessing within the state, of cigarettes and tobacco products which were previously exported from or which are manufactured for use outside the United States, making penalties applicable, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 453A.36, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION. 8.** It is unlawful for a person to ship or import into the state, or to offer for sale, sell, distribute, transport, or possess within this state, cigarettes or tobacco products previously exported from or manufactured for use outside the United States.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 2000

CHAPTER 1105

PURCHASE, POSSESSION, AND SALE OF CIGARETTES AND TOBACCO PRODUCTS

S.F. 2366

AN ACT relating to the purchase, possession, and sale of cigarettes and tobacco products and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 321.216C USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN CIGARETTES OR TOBACCO PRODUCTS.**

A person who is under the age of eighteen, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license or card to violate or attempt to violate section 453A.2, subsection 2, commits a simple misdemeanor punishable by a fine of one hundred dollars. The court shall forward a copy of the conviction to the department.

Sec. 2. Section 453A.2, Code 1999, is amended by adding the following new subsections: **NEW SUBSECTION. 2A.** Possession of cigarettes or tobacco products by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the cigarettes or tobacco products as part of the individual's employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.

NEW SUBSECTION. 5. A person shall not be guilty of a violation of this section if conduct that would otherwise constitute a violation is performed to assess compliance with cigarette and tobacco products laws if any of the following applies:

- a. The compliance effort is conducted by or under the supervision of law enforcement officers.
- b. The compliance effort is conducted with the advance knowledge of law enforcement officers and reasonable measures are adopted by those conducting the effort to ensure that use of cigarettes or tobacco products by individuals under eighteen years of age does not result from participation by any individual under eighteen years of age in the compliance effort.

For the purposes of this subsection, "law enforcement officer" means a peace officer as defined in section 801.4 and includes persons designated under subsection 3 to enforce this section.

Sec. 3. Section 453A.3, Code 1999, is amended to read as follows:

453A.3 PENALTY.

1. ~~a. A person, other than a retailer, who violates section 453A.2, subsection 1, or section 453A.39 is guilty of a simple misdemeanor.~~

b. An employee of a retailer who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

c. A person who violates section 453A.39, is guilty of a simple misdemeanor.

2. A person who violates section 453A.2, subsection 2, ~~shall pay a~~ is subject to the following, as applicable:

a. A civil penalty pursuant to section 805.8, subsection 11. Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11. Notwithstanding section 602.8106 or any other provision to the contrary, any civil penalty ~~or criminal fine~~ paid under this subsection shall be retained by the city or county enforcing the violation ~~to be used for enforcement of section 453A.2.~~

b. For a first offense, performance of eight hours of community work requirements, unless waived by the court.

c. For a second offense, performance of twelve hours of community work requirements.

d. For a third or subsequent offense, performance of sixteen hours of community work requirements.

Sec. 4. **NEW SECTION.** 453A.4 SEIZURE OF FALSE OR ALTERED DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD.

1. If a person holding a permit under this chapter or an employee of such a permittee has a reasonable belief based on factual evidence that a driver's license as defined in section 321.1, subsection 20A, or nonoperator's identification card issued pursuant to section 321.190 offered by a person who wishes to purchase cigarettes or tobacco products is altered or falsified or belongs to another person, the permittee or employee may retain the driver's license or nonoperator's identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the permittee's premises is located, and the permittee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section 321.216, 321.216A, or 321.216C has occurred. If an investigation is not initiated or probable cause is not established by the local law enforcement agency, the driver's license or nonoperator's identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the state department of transportation for investigation, in which case, the state department of transportation may investigate whether a violation of section 321.216, 321.216A, or 321.216C has occurred. The state department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or probable cause is not established.

2. Upon taking possession of an identification card as provided in subsection 1, a receipt for the card with the date and hour of seizure noted shall be provided to the person from whom the card is seized.

3. A person holding a permit under this chapter or an employee of such a permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a driver's license or a nonoperator's identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a permittee or an employee of such a permittee from civil liability for damages resulting from the use of unreasonable force in obtaining the alleged altered or falsified driver's license or identification card or the driver's license or identification card believed to belong to another person.

Sec. 5. Section 453A.13, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The department, or a city or county, shall submit a duplicate of any application for a retail permit and any retail permit issued by the entity under this subsection to the Iowa department of public health within thirty days of the issuance.

Sec. 6. Section 453A.22, subsection 2, Code 1999, is amended to read as follows:

2. If a retailer or employee of a retailer has violated section 453A.2, 453A.36, subsection 6, or 453A.39, the department or local authority, in addition to the other penalties fixed for such violations in this section, shall assess a penalty upon the same hearing and notice as prescribed in subsection 1 as follows:

a. For a first violation, the ~~violator~~ retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.

b. For a second violation within a period of two years, the ~~violator's~~ retailer's permit shall be suspended for a period of thirty days.

c. For a third violation within a period of ~~five~~ three years, the ~~violator's~~ retailer's permit shall be suspended for a period of sixty days.

d. For a fourth violation within a period of ~~five~~ three years, the ~~violator's~~ retailer's permit shall be revoked.

Sec. 7. Section 453A.22, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Notwithstanding subsection 3, if a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

NEW SUBSECTION. 5. The department or local authority shall report the suspension or revocation of a retail permit under this section to the Iowa department of public health within thirty days of the suspension or revocation of the retail permit.

Sec. 8. Section 602.6405, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. Magistrates shall hear and determine violations of and penalties for violations of section 453A.2, subsection 2.

b. Magistrates shall forward copies of citations issued for violations of section 453A.2, subsection 2, and of their dispositions to the clerk of the district court. The clerk of the district court shall maintain records of citations issued and the dispositions of citations, and shall forward a copy of the records to the Iowa department of public health.

Sec. 9. Section 805.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The uniform citation and complaint shall contain a place for citing a person in violation of section 453A.2, subsection 2.

Sec. 10. Section 805.8, subsection 11, Code Supplement 1999, is amended by adding the following new paragraph after paragraph a, and relettering the subsequent paragraph:

NEW PARAGRAPH. aa. For violations of section 453A.2, subsection 1, by an employee of a retailer, the scheduled fine is as follows:

- (1) If the violation is a first offense, the scheduled fine is one hundred dollars.
- (2) If the violation is a second offense, the scheduled fine is two hundred fifty dollars.
- (3) If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 11. Section 805.8, subsection 11, paragraph b, Code Supplement 1999, is amended to read as follows:

b. ~~(1)~~ For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

~~(a)~~ (1) If the violation is a first offense, the scheduled fine is ~~twenty five~~ fifty dollars.

~~(b)~~ (2) If the violation is a second offense, the scheduled fine is ~~fifty one hundred~~ one hundred dollars.

~~(c)~~ (3) If the violation is a third or subsequent offense, the scheduled fine is ~~one~~ two hundred fifty dollars.

~~(2) For failing to pay the civil penalty under section 453A.2, subsection 2, the scheduled criminal fine is twenty five dollars if the violation is a first offense, fifty dollars if the violation is a second offense, and one hundred dollars if the violation is a third or subsequent offense. Failure to pay the scheduled criminal fine shall not result in the person being detained in a secure facility. The complainant shall not be charged a filing fee.~~

Approved April 17, 2000

CHAPTER 1106

VETERANS PREFERENCE — PUBLIC EMPLOYMENT

H.F. 2376

AN ACT relating to veterans preference in public employment.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 35C.3, Code Supplement 1999, is amended to read as follows:

35C.3 DUTY TO INVESTIGATE AND APPOINT.

When any preferred person applies for appointment or employment under this chapter, the officer, board, or person whose duty it is or may be to appoint or employ a person to fill the position or place shall, before appointing or employing a person to fill the position or place, make an investigation as to the qualifications of the applicant for the place or position, and if the applicant is of good moral character and can perform the duties of the position applied for, the officer, board, or person shall appoint the applicant to the position, place, or employment. The appointing officer, board, or person shall set forth in writing and file for public inspection the specific grounds upon which it appointed or refused to appoint the person. ~~Within ten days after an appointment is refused, the appointing officer, board, or person shall notify the unsuccessful applicant in writing of the~~ At the time of application or at an interview for the position, an applicant may request notification of refusal only or notification of refusal and the specific grounds for refusal. The notification shall be sent within ten days after the successful applicant is selected.

Approved April 17, 2000